

**§ 162.584 What is the approval process for a leasehold mortgage of a WSR lease?**

(a) When we receive a leasehold mortgage that meets the requirements of this subpart, we will notify the parties of the date we receive it. We have 20 days from receipt of the executed leasehold mortgage, proof of required consents, and required documentation to approve or disapprove the leasehold mortgage. Our determination whether to approve the leasehold mortgage will be in writing and will state the basis for our approval or disapproval.

(b) If we do not meet the deadline in this section, the lessee may take appropriate action under § 162.588.

**§ 162.585 How will BIA decide whether to approve a leasehold mortgage of a WSR lease?**

(a) We may disapprove a leasehold mortgage of a WSR lease only if at least one of the following is true:

(1) The Indian landowners have not consented and their consent is required;

(2) The lessee's mortgagees or sureties have not consented;

(3) The requirements of this subpart have not been met; or

(4) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) In making the finding required by paragraph (a)(4) of this section, we may consider whether:

(1) The leasehold mortgage proceeds would be used for purposes unrelated to the leased premises; and

(2) The leasehold mortgage is limited to the leasehold.

(c) We will defer, to the maximum extent possible, to the Indian landowners' determination that the leasehold mortgage is in their best interest.

(d) We may not unreasonably withhold approval of a leasehold mortgage.

WSR LEASE EFFECTIVENESS,  
COMPLIANCE, AND ENFORCEMENT

**§ 162.586 When will an amendment, assignment, sublease, or leasehold mortgage of a WSR lease be effective?**

(a) An amendment, assignment, sublease, or leasehold mortgage of a WSR

lease will be effective when approved, even if an appeal is filed under part 2 of this chapter, except:

(1) If the amendment or sublease was deemed approved under § 162.572(b) or § 162.580(b), the amendment or sublease becomes effective 45 days from the date the parties mailed or delivered the document to us for our review or, if we sent a letter informing the parties that we need additional time to approve or disapprove the lease, the amendment or sublease becomes effective 45 days from the date of the letter informing the parties that we need additional time to approve or disapprove the lease; and

(2) An assignment that does not require our approval under § 162.574(b) or a sublease that does not require our approval under § 162.578(b) becomes effective on the effective date specified in the assignment or sublease. If the assignment or sublease does not specify the effective date, it becomes effective upon execution by the parties.

(b) We will provide copies of approved documents to the party requesting approval, to the tribe for tribal land, and upon request, to other parties to the lease document.

**§ 162.587 What happens if BIA disapproves an amendment, assignment, sublease, or leasehold mortgage of a WSR lease?**

If we disapprove an amendment, assignment, sublease, or leasehold mortgage of a WSR lease, we will notify the parties immediately and advise the landowners of their right to appeal the decision under part 2 of this chapter.

**§ 162.588 What happens if BIA does not meet a deadline for issuing a decision on a lease document?**

(a) If a Superintendent does not meet a deadline for issuing a decision on a lease, assignment, or leasehold mortgage, the parties may file a written notice to compel action with the appropriate Regional Director.

(b) The Regional Director has 15 days from receiving the notice to:

(1) Issue a decision; or

(2) Order the Superintendent to issue a decision within the time set out in the order.

(c) The parties may file a written notice to compel action with the BIA Director if:

(1) The Regional Director does not meet the deadline in paragraph (b) of this section;

(2) The Superintendent does not issue a decision within the time set by the Regional Director under paragraph (b)(2) of this section; or

(3) The initial decision on the lease, assignment, or leasehold mortgage is with the Regional Director, and he or she does not meet the deadline for such decision.

(d) The BIA Director has 15 days from receiving the notice to:

(1) Issue a decision; or

(2) Order the Regional Director or Superintendent to issue a decision within the time set out in the order.

(e) If the Regional Director or Superintendent does not issue a decision within the time set out in the order under paragraph (d)(2), then the BIA Director must issue a decision within 15 days from the expiration of the time set out in the order.

(f) The parties may file an appeal from our inaction to the Interior Board of Indian Appeals if the Director does not meet the deadline in paragraph (d) or (e) of this section.

(g) The provisions of 25 CFR 2.8 do not apply to the inaction of BIA officials with respect to a decision on a lease, amendment, assignment, sublease, or leasehold mortgage under this subpart.

**§ 162.589 May BIA investigate compliance with a WSR lease?**

(a) We may enter the leased premises at any reasonable time, upon reasonable notice, and consistent with any notice requirements under applicable tribal law and applicable lease documents, to protect the interests of the Indian landowners and to determine if the lessee is in compliance with the requirements of the lease.

(b) If an Indian landowner notifies us that a specific lease violation has occurred, we will promptly initiate an appropriate investigation.

**§ 162.590 May a WSR lease provide for negotiated remedies if there is a violation?**

(a) A WSR lease of tribal land may provide either or both parties with negotiated remedies in the event of a lease violation, including, but not limited to, the power to terminate the lease. If the lease provides one or both parties with the power to terminate the lease:

(1) BIA approval of the termination is not required;

(2) The termination is effective without BIA cancellation; and

(3) The Indian landowners must notify us of the termination so that we may record it in the LTRO.

(b) A WSR lease of individually owned Indian land may provide either or both parties with negotiated remedies, so long as the lease also specifies the manner in which those remedies may be exercised by or on behalf of the Indian landowners of the applicable percentage of interests under § 162.012 of this part. If the lease provides one or both parties with the power to terminate the lease:

(1) BIA concurrence with the termination is required to ensure that the Indian landowners of the applicable percentage of interests have consented; and

(2) BIA will record the termination in the LTRO.

(c) The parties must notify any surety or mortgagee of any violation that may result in termination and the termination of a WSR lease.

(d) Negotiated remedies may apply in addition to, or instead of, the cancellation remedy available to us, as specified in the lease. The landowners may request our assistance in enforcing negotiated remedies.

(e) A WSR lease may provide that lease violations will be addressed by the tribe, and that lease disputes will be resolved by a tribal court, any other court of competent jurisdiction, or by a tribal governing body in the absence of a tribal court, or through an alternative dispute resolution method. We may not be bound by decisions made in such forums, but we will defer to ongoing actions and proceedings, as appropriate, in deciding whether to exercise any of the remedies available to us.